

Youth Access to Tobacco



Compliance Inspection PROTOCOL MANUAL

Direct Questions to:

HELP Committee

PO Box 68

Havre, MT 59501

Toll free: 1-877-IDMINOR (436-4667)

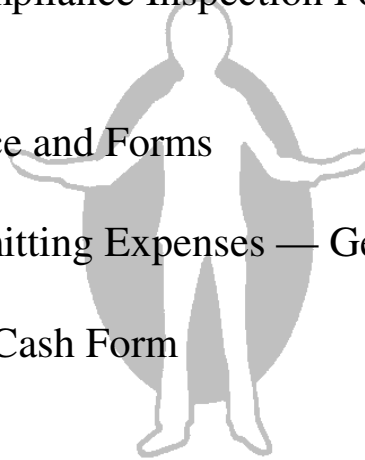
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 - What was distinctive about the employee who sold?



I. Overview

Youth Access to Tobacco Products Control Act 16-11-305

(1) Sale or distribution of tobacco products to persons under 18 years of age is prohibited whether over the counter, by vending machine, or otherwise.

(2) If there is a reasonable doubt as to the individual's age, the seller shall require presentation of a driver's license or other generally accepted identification that includes a picture of the individual.

Enforcement Requirements

Annually, the state selects a random sampling of 500 to 600 licensed tobacco retailers to inspect.

A trained minor, age 15 to 17, attempts to purchase tobacco from the retailer. The minor is accompanied by a trained adult who witnesses and transcribes the transaction. The state's compliance contractor, the HELP Committee, assigns inspections and hires and trains adult inspectors.

Sale and Display Requirements

Sale of tobacco through vending machines is restricted to places where alcoholic beverages are sold and consumed on the premises and where the vending machine is under the direct line-of-sight supervision of the owner or an employee of the establishment. Tobacco vending machines must contain only tobacco products.

Distribution in other than sealed packages is prohibited, and single cigarettes may not be sold.

A retail seller of tobacco products shall conspicuously display, at each place on the premises at which tobacco products are displayed and sold, a sign that is to be provided without charge by the Montana Department of Revenue that states "Montana law prohibits the sale of tobacco products to persons under 18 years of age".

Violations and Penalties

1st through 4th Violations - \$25 education fee (civil penalty) assessed to the clerk who sold

5th Violation - \$25 education fee (civil penalty) assessed to the clerk who sold and \$500 education fee assessed to owner

6th Violation - \$25 education fee (civil penalty) assessed to clerk and owner's tobacco license suspended for 3 months

7th & Subsequent Violations - \$25 education fee (civil penalty) assessed to clerk and owner's tobacco license suspended for 1 year

Violations must occur within a three-year period. If, after two years from the first violation, there have been no further violations, the next violation is considered a first.

II. Getting Started

Officer Qualification/Certification

All inspections will be conducted by trained inspectors. Training is provided by HELP Committee staff. Trained inspectors must not have DUI citations in the last 24 months and must be U.S. citizens.

Assembling Inspection Teams and Documents

Male & Female minors must:

- be 15-17 years of age
- look their age
- be ethnically representative of area

Escorts must:

- be at least 21 years of age
- be a U.S. citizen

If a minor inspector is the opposite gender of the adult inspector, funds are available to pay an adult escort, of the same gender as the minor, to ride along on inspections.

For each team member, the adult inspector must obtain and submit the following documents to the HELP Committee, prior to inspecting:

Minor Inspectors:

- completed Youth Employment Forms packet
- completed Youth Inspector Forms

Escorts:

- signed “Acknowledgment of Risk and Release for Escorts”

Working With Minors Before Inspections

Train minors on inspection procedures:

- A videotape produced by the Center for Substance Abuse Prevention is your primary training tool. This video covers the who, when, where, and how of tobacco inspections. Although the tape is largely consistent with state requirements, there is one significant inconsistency: *You may conduct inspections after daylight hours as long as you have permission from the minor’s parents and the minor’s safety is not jeopardized. Review allowable inspection hours on the “Parent/Guardian Release” form and follow them.*
- The minor should leave his identification in the car and not carry it into the inspection site. If asked for ID, he can honestly say that he doesn’t have it with him. If the minor has his ID with him during the inspection, he should not show it, if asked.
- When inspecting sites with vending machines, the minor must ask an employee for change for the machine. This allows the employee ample opportunity to refuse the sale.
- The minor must not persuade or lie to a clerk.

Take a photograph of the minor EACH DAY OF INSPECTING! If a clerk appeals a violation, those who conduct the hearing will request this picture to use when reviewing store videos, etc. Have the youth write his name and the date on a piece of paper and then have him hold that piece of paper for the picture.

HELP Committee
Acknowledgment of Risk and Release for Escorts

I, _____ [Name], of _____

_____ [Full Address], desire to be a chaperone for the
HELP Committee during Youth Access to Tobacco Compliance Inspections.

I recognize and acknowledge that there are risks and hazards directly or inherently involved in this activity, not all of which can be identified with particularity or certainty and not all of which are described herein. With full knowledge of the facts and circumstances surrounding this activity, I voluntarily undertake this activity and assume all responsibility and risk from my participation, including all risk of property damage and injury to others and to me.

I assure the HELP Committee that I have adequate health insurance necessary to provide for and pay any medical costs that may directly or indirectly result from my participation and that I will indemnify and hold the HELP Committee, its governing board, its employees, its agents, and the state of Montana harmless with respect to all such costs. I further assure the HELP Committee that there are no health-related reasons or problems which preclude or restrict my participation.

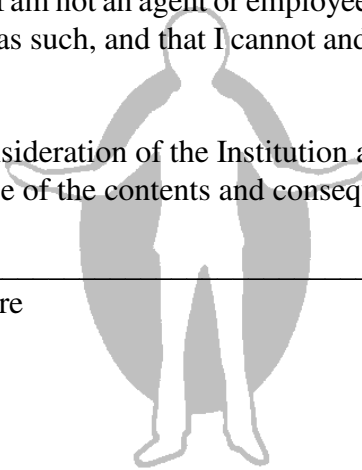
To the extent permitted by law, I release the HELP Committee, its governing board, its employees, its agents, and the state of Montana, from any liability whatsoever arising out of my participation. This includes, but is not limited to, any damage to my property or the property of others and injury to me or to others, including loss of limb or life, resulting from my negligence or the negligence of others, or to others through my participation.

I recognize and acknowledge that I am not an agent or employee of the HELP Committee, that I may not and will not represent myself as such, and that I cannot and will not bind or obligate the HELP Committee in any way.

The foregoing is submitted in consideration of the Institution allowing my participation. I execute this document with full knowledge of the contents and consequences stated in this Release.

Participant Printed Name/Signature

Date



III. Inspection Assignments, Preparing to Inspect, Inspections

When a Packet of Assigned Inspections is Received

STEP 1: The HELP Committee will assign inspections. After receiving assignments, review them. If the assignments include outlets that you know no longer exist, have had a name change, are private or membership-only outlets, are wholesale outlets, or are outlets that you feel there is good reason not to inspect, contact the HELP Committee with that information before you begin inspections.

STEP 2: Call the HELP Committee for approval of your intended schedule at least three business days before conducting any inspections. We have Reward & Reminder survey teams surveying most of the state year 'round. We cannot have survey and inspection teams visiting the same businesses during the same week.

Preparing to Inspect

Before leaving to inspect, verify that you are prepared by using the following check-list:

Adult Inspector

Inspection Manual
Wearing regular customer clothing
Portable office supplied by the HELP Committee:

- black ballpoint pen
- clipboard
- cash bag
- white evidence labels
- inspection forms

Minor Inspector

Photographed each day of inspections
Wearing school clothing

Completed Sale (Violation)

Complete the Tobacco Compliance Inspection Report and process evidence in your car immediately following each inspection (see Compliance Check Forms and Processing Evidence).

Fax the form for each violation to the HELP Committee by 9 a.m. the next business day. Our fax line is toll-free (1-877-ID-MINOR or 1-877-436-4667). Use the fax cover sheet supplied by the HELP Committee. Be sure to complete all of the information on the cover sheet. We may need to contact you for clarification before or after we phone merchants that are in violation.

Mail completed forms and evidence within 24 hours to the HELP Committee using the pre-addressed and stamped Priority Mail envelope provided in the assignment packet.

Completed No-Sale (Complied)

Complete the paperwork for a no-sale as thoroughly as paperwork for a sale! Mail these forms to the HELP Committee within 24 hours, as well.

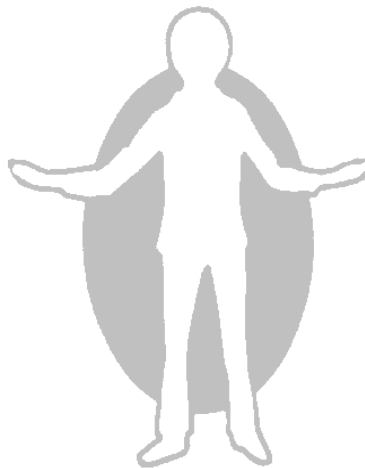
IV. Compliance Inspection Forms

Filling Out the Tobacco Compliance Inspection Report

- State forms are carboned, so DON'T write on a form with others below it! We need to be able to clearly read the text on all of the yellow copies!
- Use black ball-point pens only!
- No erasures or White-Out; correct with single-line strike out and initial correction
- Time = use civilian time with the a.m./p.m. designation
- Complete each form immediately following each inspection! Use the list of questions regarding what was distinctive about the transaction and employee to ensure you thoroughly complete the form.
- If you will return to inspect a business at a later date, DO NOT WRITE ON THE FORM until you complete the inspection! DO NOT FILL OUT ANY INFORMATION AHEAD OF TIME!

Sample Form

The following page is a sample Tobacco Compliance Inspection Report.





STATE OF MONTANA
DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
ADDICTIVE AND MENTAL DISORDERS DIVISION

Inspection Number

8701

TOBACCO COMPLIANCE INSPECTION REPORT

Date: _____ Time: _____ AM PM

- ☐ Convenience store with or without gas (C)
- ☐ Gas station with no convenience store (G)
- ☐ Grocery store (GR)
- ☐ Drug store (D)
- ☐ General merchandise (GM)
- ☐ Tobacco store (T)
- ☐ Liquor store (L)
- ☐ Bar/Tavern/Casino (BTC)
- ☐ Restaurant (R)
- ☐ Hotel/Motel/Inn (HMI)
- ☐ Other: (O) _____

To be completed by the adult witness:

Result: (circle appropriate result) Sale No Sale

Clerk's Name: _____

Sex: _____ Race: _____ Approximate: Age _____ Height _____ Weight _____

Hair: Color _____ Length: _____ Facial Hair: _____

Eye Glasses: _____ Type (wire, black plastic, etc.) _____

Other outstanding features (tattoos, scars, jewelry, etc.) _____

Point of Purchase: Vending Machine _____ Check-out Stand _____ Other (explain) _____

Brand of Tobacco: _____ Smokeless _____ Cigarette _____

Price: \$ _____ Did minor receive a receipt? _____ If yes, attach receipt to evidence

Description of Incident – Indicate: location of tobacco such as self-service display, behind the check stand, vending machine location; location of purchase attempt such as check stand number, camera bar, etc.; and any comments made by the clerk or observations made by the adult witness.

Adult Witness Printed Name: _____ Phone: _____

Adult Witness Signature: _____

Youth Sex: F M Youth Age: _____ Last Four Digits of Youth SS#: _____

FOR OFFICE USE ONLY

Processing Evidence

On the supplied evidence labels, fill-in the Violation Number (the violation number is the preprinted number in the upper right hand corner of the inspection form) and have both the adult inspector and youth inspector initial the label. Securely affix the label to the tobacco product. If you didn't receive a receipt, mail the evidence back, as is, with your forms. If you received anything in addition to the cigarettes, place the items with the tobacco in a Ziploc bag and mail the bag back with your forms. Labels are to be adhered to the tobacco, not used to seal the bag.

VI. Tracking and Submitting Expenses — Getting Paid!

Use the Inspection Invoice to track expenses related to your inspections and submit for reimbursement. Complete the invoice after each day of inspections and return with the inspection forms and evidence in the Priority Mailer to the HELP Committee. Do not fax the invoice with the inspections, as we do not verify for payment until the packet is received.

The HELP Committee
P.O. Box 68
Havre, MT 59501

Inspection Compensation

The following pay policy has been established for the current inspection year.

Local Inspections:

Local inspections take place within 15 miles of the city limits of the city or town in which the inspector resides. Local inspections will be compensated at \$16 per inspection.

Non-local Inspections:

Non-local inspections take place beyond 15 miles of the city limits of the city or town in which an inspector resides. These inspections will be compensated according to the following schedule:

- a. \$16 per inspection
- b. Mileage will be reimbursed at the current state rate of \$0.485 per mile.
- c. Travel Allowance:
\$10 for each 50 miles traveled outside the inspector's home community will be paid.
- d. Per Diem:
Meal allowances are provided for the adult inspector and each minor inspector. Refer to the invoice, on page 9 of this manual, for an explanation of meal times and allowances. Request the applicable allowance amounts on each invoice. If the minors' meals cost less than the allowance, be sure to pay the minor the difference in cash.
- e. Hotel:
Reimbursement is based on state rates. Hotel stays must be *pre-approved*.

Youth Compensation

Minor inspectors will be paid an hourly rate of \$8, beginning when they report for each day's inspections. The HELP Committee's Workman's Compensation Policy will cover the minors in their role as inspectors.

Escort Compensation

Escorts will be paid \$6.50 an hour while accompanying the adult and minor inspectors.

2005-2006 Inspection Invoice

- ▶ Submit one invoice per inspection date.
- ▶ Invoices will be paid, by direct deposit, on the last business day of each month.
- ▶ Keep a copy for your records and submit this invoice to:
LuAnn McLain, The HELP Committee, PO Box 68, Havre, MT 59501.

Inspector's Name:	Inspector ID #:
Date Inspections were Conducted:	

LOCAL INSPECTIONS:

a. _____ Completed Inspections x \$16 = \$_____

NON-LOCAL INSPECTIONS (more than 15 miles from your town's city limits):

a. _____ Completed Inspections x \$16 = _____

b. _____ Miles Traveled x .485/mile = _____

c. _____ Miles Traveled ÷ 50 x \$10 (additional time allowance) = _____

ADDITIONAL REIMBURSABLE EXPENSES:

f. Photo Processing _____

g. Postage (explain: _____) _____

h. Tobacco Purchases (attach cash bag slip) _____

i. Escort Fee for _____ @ \$6.50 per hour _____

j. Per Diem (\$5 breakfast, \$6 lunch, \$12 dinner allowed per person per day) _____
(Breakfast = 12:01 am-10 am; Lunch = 10:01 am-3 pm; Dinner = 3:01 pm-midnight)

k. Hotel (w/pre-approval, we will reimburse up to \$60 per night per room) _____

l. Other (explain: _____) _____

SUBTOTAL = _____

For office use only: Adjustments as per _____ - _____

TOTAL DUE = \$_____

Signature: _____ Date: _____

Starting Mileage	Ending Mileage	Total Mileage
Indicate time. Clock out when eating meals, taking breaks, or conducting other business.		
Start Time	Stop Time	Total Hours

Meals: The time ranges determining eligibility for meal allowances are established in MCA 2-18-502(1). To claim an allowance for a meal, you must be in a travel status for more than three continuous hours within each time range.

Updated 2/06

These questions will aid you in thoroughly completing your inspection reports. Attach the loose copy of this list (found in your folder) to your inspection clipboard!

What was distinctive about the site of this transaction?

- Was there an aisle number?
- If not, was the register on the right or left side of the store (as you enter the store)?
- Were there any displays near the register? Describe.
- Was the store busy?
- Did the clerk open an aisle to serve you?
- Was the clerk working elsewhere in the business right before serving you?
- If so, where was he/she working?
- Where were the registers?
- Were there other cashiers?
- What were the genders and estimated ages of the cashiers on either side of the register that was approached for the sale?
- If there was more than one employee, how would you distinguish among them?
- Through which door did you enter the establishment?
- Through which door did you leave the establishment?
- If this is a vending machine case, was the vending machine in the same room as the cashier?

What was distinctive about the employee who sold?

- What was the employee wearing?
 - a. shorts, slacks or a certain brand of jeans?
 - b. what were the colors of his/her shirt or blouse or pants?
- What were the nearest other employees wearing?
- Was the employee wearing a uniform?
- Was there anything unique about his or her uniform? (Such as a different color of apron from the other employees)
- Did the employee have any piercings?
 - a. regular ear piercings
 - b. more than one ear piercing in each earlobe and/or upper-ear piercings
 - c. other types of visible piercings (such as eyebrow, nose, tongue, lip)
- Was the employee wearing jewelry?
 - a. what type? (such as earrings, necklace, finger rings, bracelets, watch)
 - b. describe (such as many, one on every finger, just a wedding ring)
- Did the employee have any visible tattoos?
 - a. where on body?
 - b. describe the tattoos(s)
- 2. Was the employee wearing any distinctive accessories?
(such as a large belt buckle, hair clips, barrettes, a ponytail scrunchy, hat or cap, etc.)